

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

KEITH PAUL BIRD,
Plaintiff,

v.

JAMES DZURENDA, *et al.*,
Defendants.

Case No. 2:20-cv-02186-APG-EJY

ORDER

I. DISCUSSION

On December 1, 2020, Plaintiff an inmate in the custody of the Nevada Department of Corrections (“NDOC”), filed an application to proceed *in forma pauperis* together with a civil rights complaint under 42 U.S.C. § 1983. (ECF Nos. 1-1, 1). Plaintiff has not submitted a current application to proceed *in forma pauperis* nor current financial attachments. Under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to commence a civil action may apply to proceed *in forma pauperis*, which allows the inmate to file the civil action without prepaying the full \$402 filing fee. To apply for *in forma pauperis* status, the inmate must submit all three of the following documents to the Court:

(1) a completed Application to Proceed in Forma Pauperis for Inmate, on this Court’s approved form (i.e. pages 1 through 3 with the inmate’s two signatures on page 3),

(2) a Financial Certificate properly signed by both the inmate and a prison or jail official (i.e. page 4 of this Court’s approved form), and

(3) a copy of the inmate’s prison or jail trust fund account statement for the previous six-month period. If Plaintiff has not been at the facility a full six-month period, Plaintiff

must still submit an inmate account statement for the dates he has been present at the facility.

The Court grants Plaintiff a one-time extension to file a fully complete application to proceed *in forma pauperis* containing all three of the required documents or, in the alternative, pay the \$402 filing fee for this action on or before **February 5, 2021**. Absent unusual circumstances,

the Court will not grant any further extensions of time. If Plaintiff is unable to file a fully complete application to proceed *in forma pauperis* with all three required documents or pay the full \$402 filing fee on or before **February 5, 2021**, the Court will dismiss this case without prejudice for Plaintiff to file a new case with the Court when Plaintiff is able to acquire all three of the documents needed to file a fully complete application to proceed *in forma pauperis* or pay the full \$402 filing fee.

A dismissal without prejudice means Plaintiff does not give up the right to refile the case with the Court, under a new case number, when Plaintiff has all three documents needed to submit with the application to proceed *in forma pauperis*. Alternatively, Plaintiff may choose not to file an application to proceed *in forma pauperis* and instead pay the filing fee of \$402 on or before **February 5, 2021** to proceed with this case.

The Court will retain Plaintiff's civil rights complaint (ECF No. 1-1), but the Court will not file the complaint unless and until Plaintiff timely files a fully complete application to proceed *in forma pauperis* with all three documents or pays the full \$402 filing fee.

II. CONCLUSION

For the foregoing reasons, IT IS HEREBY ORDERED that Plaintiff's application to proceed *in forma pauperis* (ECF No. 1) is denied without prejudice. Plaintiff may file a new and fully complete application to proceed *in forma pauperis* that includes all three documents by **February 5, 2021**.

IT IS FURTHER ORDERED that the Clerk of the Court shall send Plaintiff the approved form application to proceed *in forma pauperis* by an inmate, as well as the document entitled information and instructions for filing an *in forma pauperis* application.

IT IS FURTHER ORDERED that on or before **February 5, 2021**, Plaintiff shall either pay the full \$402 filing fee for a civil action (which includes the \$350 filing fee and the \$52 administrative fee) or file with the Court:

- (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this Court's approved form (i.e. pages 1 through 3 of the form with the inmate's two signatures on page 3),

- 1 (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official
2 (i.e. page 4 of this Court's approved form), and
3 (3) a copy of the **inmate's prison or jail trust fund account statement for the previous**
4 **six-month period.**

5 IT IS FURTHER ORDERED that, if Plaintiff does not file a fully complete application to
6 proceed *in forma pauperis* with all three documents or pay the full \$402 filing fee for a civil action
7 on or before **February 5, 2021**, the Court will dismiss this action without prejudice for Plaintiff to
8 refile the case with the Court, under a new case number, when Plaintiff has all three documents
9 needed to file a complete application to proceed *in forma pauperis* or pays the the full \$402 filing
10 fee.

11 IT IS FURTHER ORDERED that the Clerk of the Court shall retain Plaintiff's complaint
12 (ECF No.1-1) but will not file it at this time.

13 Dated this 8th day of December 2020

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15 ELAYNA J. YOUCHAH
16 UNITED STATES MAGISTRATE JUDGE
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